



OFFICE OF
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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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CONEX-156815-01



Dear: 

This letter responds to your request dated September 18, 2001, for information regarding the storage on CD-Rom of W-4 forms that have been completed and signed by your client's employees. As is discussed below, the regulations require that employers retain the original W-4s that are furnished to them by their employees.

Section 3402(a)(1) of the Internal Revenue Code ("the Code") requires all employers who make payments of wages to withhold from those wages a tax "determined in accordance with tables or computational procedures prescribed by the Secretary."

Whereas section 3402 of the Code requires an employer to withhold tax, section 31.6001-5(a) of the Regulations on Employment Taxes and Collection of Income Tax at Source requires that employer to "keep records of all remuneration paid to (including tips reported by) such employees." Such records include the "withholding exemption certificates (Forms W-4 and W-4E) filed with the employer by the employee." Section 31.6001-5(a)(13) of the regulations.

Based on the language of the regulation, employers are required to retain the original W-4 and W-4Es that have been provided to the employer by the employee. Unlike other types of records, the regulations do not allow employers to simply keep a copy of a W-4 provided by an employee. Accordingly, your client cannot scan the W-4s and discard the originals.

However, section 31.3402(f)(5)-1(c) of the regulations does allow employers to establish a system whereby employees file the W-4s electronically with their respective employer. Should your client wish to establish such an electronic system, your client will need to follow the procedures described in section 31.3402(f)(5)-1(c).

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If you have any further questions, please call (202) 622-4910.

Sincerely,

James C. Gibbons
Branch Chief
Administrative Provisions and
Judicial Practice
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